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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/872,004      | 06/04/2001  | Hisashi Tanaka       | NEC01P071-S1b       | 3637             |

30743 7590 06/22/2004

WHITHAM, CURTIS & CHRISTOFFERSON, P.C.  
11491 SUNSET HILLS ROAD  
SUITE 340  
RESTON, VA 20190

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| EXAMINER |
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HAQ, NAEEM U

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| ART UNIT | PAPER NUMBER |
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3625

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/872,004

Applicant(s)

TANAKA ET AL.

Examiner

Naeem Haq

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).. Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alloul et al. (US 6,032,130) in view of Kondoh et al. (US 2001/0011239 A1).**

Referring to claims 1, 3, 5, and 7, Alloul teaches a network marketing system comprising: at least one user terminal for being operated by a user that purchases items and having the capability to be connected to a network (Figures 1 and 2; column 4, line 21 – column 5, line 57); an item database for storing information on items on the market (column 1, lines 61-64; column 4, lines 46-63); a shopping cart database each associated with each user for storing shopping carts to temporarily save items to be investigated for purchase by a user (column 5, line 58 – column 6, line 36). Alloul also teaches providing said user terminal with item information stored in said item database (column 5, lines 11-26), for adding a particular item to a shopping cart stored in said shopping cart database upon receiving notification from said user terminal to add that item to the shopping cart (column 5, line 58 – column 6, line 36). Alloul also teaches presenting items in said shopping cart to said user terminal to confirm whether or not the user has the intention to purchase upon receiving notification from said user

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terminal of the intention to purchase items in the shopping cart (column 5, line 58 – column 6, line 36). Alloul also teaches accepting an application to purchase only with respect to items for which intention of an application to purchase could be confirmed (column 6, lines 26-36). Alloul does not teach that the items are presented sequentially. However, Alloul does teach a confirmation list (column 6, lines 14-19). Furthermore, Kondoh teaches presenting items sequentially (Figure 7). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Kondoh into the invention of Alloul. One of ordinary skill in the art would have been motivated to do so in order to allow the user to easily identify those items that the user did not want to purchase at this time. Finally, the cited prior art does not teach that a marketer server performs one or a number of the above-identified tasks. However, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to have a marketer server perform the tasks listed above. Applicant has not disclosed that a marketer server provides an advantage, is used for a particular purpose or solves a stated problem. Furthermore, one of ordinary skill in the art would have expected Applicants' invention to perform equally well with any type of server or computer system because one of ordinary skill in the art would realize that the computational load must be performed by some computer system. Therefore, it would have been obvious to one of ordinary skill in this art to modify the cited prior to obtain the invention as specified in the claims.

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Referring to claims 2, 4, and 6, Alloul teaches that the user terminal establishes a right to purchase preferentially a particular item when said user saves the item in said shopping cart (column 6, lines 6-19).

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (703)-305-3930. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (703)-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Naeem Haq**, Patent Examiner  
Art Unit 3625

  
Jeffrey A. Smith  
Primary Examiner

June 11, 2004